IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8926 OF 2003

Narayan Sakharam Parab ..Petitioner

Vs.

Bhagwan Sakharam Parab & Ors. ..Respondents

Mr.G.J.Sabnis for the petitioner

CORAM : A.P.DESHPANDE, J

DATED : 7TH NOVEMBER, 2006

P.C.:

1. An order passed by the first appellate court rejecting the application moved by the original defendant seeking condonation of delay is challenged by filing this writ petition.

2. The respondent instituted a suit for partition against the present petitioner. The petitioner engaged a lawyer who put in his appearance. The petitioner did not file any written statement nor did he attend the court on the date of hearing which led to the passing of

ex-parte decree. When the decree was sought to be executed, the petitioner filed an appeal and as the appeal was time barred, moved an application with a prayer for condonation of delay. The first appellate court found that the petitioner has not been diligent at all and has not contested the suit which was pending for more than 6 years.

3. Touching the reason pertaining to the delay in filing of the appeal, the first appellate court has observed that the reason spelt out for condonation of delay is about illness. The nature of illness is not referred to in the application nor any medical certificate is attached. Taking the overall view of the matter, the first appellate court has taken a possible view and rejected the application.

4. Perused the impugned order. No interference is called for. Petition is summarily dismissed.

(SHRI A.P.DESHPANDE, J)